

CROWELL & MORING LLP

1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004-2595
(202) 624-2500
FACSIMILE (202) 628-5116

043:smd
01215.010

ROBERT M. HALPERIN
(202) 624-2543
rhalperin@cromor.com

SUITE 1200
2010 MAIN STREET
IRVINE, CALIFORNIA 92614-7217
(949) 263-8400
FACSIMILE (949) 263-8414
180 FLEET STREET
LONDON EC4A 3HD
44-171-413-0011
FACSIMILE 44-171-413-0333

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, DC 20554

Re: In the Matter of Federal-State Joint Board on Universal Service
Promoting Deployment and Subscribership in Unserved and
Underserved Areas, Including Tribal and Insular Areas,
CC Docket No. 96-45

Dear Ms. Salas:

Transmitted herewith on behalf of the State of Alaska are an original and four (4) copies of the "Comments of the State of Alaska" for filing in the above-referenced docket.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


Robert M. Halperin

Enclosures

cc: Sheryl Todd (1 diskette copy)
International Transcription Service, Inc. (1 diskette copy)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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Areas, Including Tribal and)
Insular Areas)
_____)

**COMMENTS OF
THE STATE OF ALASKA**

Robert M. Halperin
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202/624-2543

Attorneys for The State of Alaska

Of Counsel:

John W. Katz, Esquire
Special Counsel to the Governor
Director, State-Federal Relations
Office of the State of Alaska
Suite 336
444 North Capitol Street, N.W.
Washington, D.C. 20001

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SUMMARY

The State of Alaska commends the FCC for continuing to take steps aimed at increasing the use of telecommunications services in unserved and underserved areas of the United States, including areas inhabited by Native Americans. Affordable access to modern telecommunications services is essential to public health and safety, the economic development of our communities, and the personal development of all our citizens.

Increasing the deployment of and subscribership to telecommunications services in unserved and underserved areas of Alaska is difficult because of the vast territory, the harsh terrain and climate, the remote and small size of most rural Alaskan communities, and the low income of many residents of those areas. Yet, as set forth below, the State believes that there are some steps the FCC can and should take.

Many of the proposals set forth in the FCC's notice relate to areas it calls tribal lands. The FCC is concerned that there may be areas in which it needs to adopt specific programs (such as an expanded Lifeline program) or make certain regulatory decisions because there is no State regulatory jurisdiction over these lands. In Alaska, however, there are no lands which the jurisdiction of the Regulatory Commission of Alaska does not cover. This does not mean that programs the FCC adopts for tribal lands in other parts of the Nation should not be applied in Alaska. Congress has repeatedly decided that Native Alaskans are entitled to participate in federal programs aimed at improving the lives of Native

Americans to the same extent as other native groups. Therefore, the FCC should take steps, consistent with State regulatory jurisdiction and in consultation with Native Alaskan tribes through their tribal governments, to promote increased telephone usage by Native Alaskans. The State urges the FCC and its staff to come to Alaska to meet with Native Alaskans including representatives of tribal governments, other rural residents, the Regulatory Commission of Alaska, the State, and others on these issues.

Addressing the problem of small local exchange calling areas is also an important step the FCC can take to increase telephone subscribership. One reason for low telephone penetration rates in some areas is that local exchange service covers calls only to a very small number of access lines and virtually all calls are expensive toll calls. The State endorses the proposal to expand the Lifeline program to provide limited support for intrastate toll calls in these areas. The FCC should also establish a pilot program to evaluate the costs and benefits of expanding the LinkUp program to address the problem of high line extension costs.

The State believes that another important step the FCC can take to increase use of telecommunications services in underserved areas is to include dial-up Internet access in the basket of services to be supported by federal universal service programs. The President recently proclaimed a goal of having Internet service be as widely available in developing nations as telephone service is today. We must take steps to implement this goal throughout all parts of this Nation, including rural areas where the facilities necessary to provide dial-up Internet service are not

available or where, because of low population density or other reasons, dial-up Internet service is prohibitively expensive.

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**COMMENTS OF
THE STATE OF ALASKA**

INTRODUCTION

The State of Alaska ("State" or "Alaska") submits these comments in response to the Commission's Further Notice of Proposed Rulemaking seeking comments on various proposals to increase the deployment of telecommunications facilities and increase subscribership to telecommunications services in unserved and underserved areas, including tribal lands.¹

¹ *Federal State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal Lands*, Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 99-204 (rel. Sept. 3, 1999) ("*FNPRM*"). These comments address only some of the issues raised in the *FNPRM*. Other issues will be addressed in separate comments filed by the Regulatory Commission of Alaska.

I. BOTH THE NEED FOR AND THE DIFFICULTY OF PROVIDING AFFORDABLE, HIGH QUALITY TELECOMMUNICATIONS SERVICE IN ALASKA ARE HIGH.

Responding to the Commission's inquiries concerning the availability of telecommunications service in underserved and unserved areas of Alaska requires an understanding of unique characteristics of the Forty-Ninth State. Although telecommunications services are important for the provision of health care, public safety and educational services and economic development throughout the country, these services are critical in rural areas of Alaska. Yet, the same factors that make telecommunications so critical in Alaska – such as the remoteness and vast expanse of land, the harsh climate and rough topography, and very low population density – make the provision of affordable high quality telecommunications service difficult. Additional steps to promote service in these areas, therefore, are needed.

Alaska covers a vast land mass. It encompasses 586,400 square miles, one-fifth the land mass of the Continental United States. Alaska is larger than the three next largest states combined, and 488 times the size of the smallest state (Rhode Island). Alaska is 1400 miles tall (North to South) and 2700 miles wide (East to West). If Alaska were superimposed on the Lower 48, it would extend from South Carolina to California, and from Mexico to the U.S.-Canada border.²

Alaska is not only large, it is isolated from the Continental United States. Alaska is nearly equidistant from Japan, Europe, and Washington, D.C. It shares

² <http://www.sled.alaska.edu/akfaq/aksuper.html> (visited Nov. 13, 1999).

its only land border with Canada. Alaska's Little Diomed Island is only 2.5 miles from Russia's Big Diomed Island. Barrow, the northernmost community in Alaska, is only 800 miles from the North Pole.

Alaska's geography is unique in other ways as well. Alaska has more than 5,000 glaciers. Ice fields cover 28,800 square miles (almost 4 percent of the State). Much of Alaska is mountainous, and North America's largest mountain, Mt. McKinley, is located in Alaska.³

The current population is estimated to be approximately 622,000.⁴ Thus, state-wide, the population density of Alaska is approximately 1 person per square mile. By comparison, the population density of the Nation as a whole is approximately 71 people per square mile.⁵ Roughly half (an estimated 259,391) of the State's population lives in Anchorage. Thus, outside of Anchorage, the population density of Alaska is only about 0.5 person per square mile.

There are 323 communities in Alaska. In addition to Anchorage, only two other cities (Juneau and Fairbanks) are inhabited by more than 10,000 people.⁶ There are only 23 communities of between 1,000 and 10,000 people.⁷ Thus, almost

³ *Id.*

⁴ "Labor Department Estimates Alaska's 1999 Population," September 21, 1999 (found at <http://www.labor.state.ak.us/news/news0013.htm> (visited Nov, 13, 1999)).

⁵ <http://sled.alaska.edu/akfaq/aksuper.html> (visited Nov. 13, 1999).

⁶ The U.S. Census Bureau measures the population in some areas that are not part of municipalities. The College Census Designated Place outside of Fairbanks also has more than 10,000 people. *Id.*

⁷ *Id.*

300, or 90 percent of, Alaskan communities have fewer than 1,000 people. Eighty-seven communities – over a quarter of the total – have fewer than 100 people. Another 75 communities have a population of between 100 and 250 people.⁸

Transportation systems in Alaska are limited. Unlike other parts of the Nation, most Alaskan communities – including the State Capitol – are not accessible by road. State-wide, Alaska has only about 13,000 miles of public roads, only about 3800 of which are paved.⁹ Although Alaska is more than twice the size of Texas, its land road mileage is more like that of Vermont.¹⁰ Thus, many Alaskan communities can be accessed only by air or by water. Not only are these forms of transportation generally more expensive than land transportation, they are also frequently impossible because of weather conditions.

Given the large land mass, the climate in Alaska is quite varied, but one almost universal characteristic is that the weather is extreme. Annual precipitation averages over 200 inches in the southeastern Alaska and up to 150 inches along the northern coast of the Gulf of Alaska. Annual snowfalls have been as high as 975 inches (over 81 feet) at Thompson Pass. The coldest temperature in the Nation, minus 80, has been recorded at Prospect Creek, Alaska. Winds of up to

⁸ These data were provided by the Alaska Department of Labor and Workforce Development, Division of Administrative Services, Research Analysis.

⁹ These data were provided by the Alaska Department of Transportation, Office of the Commissioner.

¹⁰ <http://www.sled.alasks.edu/akfaq/aksuper.html> (visited Nov. 13, 1999).

139 miles per hour have been experienced at Shemya, on the western end of the Aleutian Islands.¹¹

All of these characteristics make the provision of telecommunications services in Alaska quite difficult and costly. Installing and maintaining telecommunications equipment in most parts of the State is a challenge. Simply traveling to many of these communities is not easy. Equipment, supplies and personnel must often be transported by plane or ship. Once materials arrive in these communities, construction of facilities is difficult. There is no electricity in some locations, and installed facilities must be constructed to accommodate permafrost conditions and the harsh climate. The small population of most Alaskan communities also means that there are relatively few lines, by national standards, over which these costs can be spread.

These same characteristics, however, also make telecommunications services essential. Given the remoteness of these communities, telecommunications are critical to the social, economic, and political integration of these communities into the rest of the Nation. Indeed, telecommunications must perform many more functions in rural Alaska than elsewhere. Telecommunications are often the only method for delivering life-saving health care and public safety information. Telecommunications are critical to the school and lifelong education of rural

¹¹ *Id.*

children and adults. And, of course, telecommunications are critical to economic development in these areas.

II. PENETRATION RATES IN RURAL ALASKA ARE FAR BELOW THE NATION-WIDE AVERAGE.

In Section II of the *FNPRM*, the Commission asks questions concerning the deployment of telecommunications facilities and subscribership information in unserved and underserved areas and, in particular, factors inhibiting the deployment of additional telecommunications facilities and higher rates of telephone subscribership.

According to recent FCC data, approximately 94 percent of households in the Nation subscribe to telephone service.¹² Notwithstanding the great need for telecommunications services in rural Alaska, telephone penetration rates appear to be far below the national average.

Several Alaskan carriers have undertaken significant efforts over the years to encourage telephone subscribership in rural Alaska. Nonetheless, subscribership rates remain low. One of the largest local exchange carriers in rural Alaska is United Utilities. It reports subscribership in several communities at less than 40 percent (Beaver (28%); Birch Creek (36%); Chalkyitsik (38%); Platinum (31%)).¹³ Overall, United Utilities reports that telephone subscribership in the rural areas it serves has increased to approximately 81 percent of households. Although this

¹² *FNPRM* ¶ 5, citing *Telephone Subscribership in the United States*, Report, Table 1 (Com. Car. Bur., rel. Feb. 18, 1999).

¹³ See Comments of United Utilities filed in response to the *FNPRM*, Exhibit 3.

figure may not appear to be low in the abstract, it means that households in these rural Alaskan communities are over three times more likely to be without telephone service than the “average” American household (19% of these households lack telephone service as opposed to 6% nation-wide).

The State believes that there are several reasons why telephone penetration rates in these areas are below national norms. First, telephone service in rural Alaska is costly and difficult to provide. Local loop costs and local switching costs in these communities are far higher than the national average.¹⁴ The same factors that make service costly and difficult to provide also adversely affect service quality. At a recent public meeting on universal service issues conducted by the Lieutenant Governor Fran Ulmer and the Regulatory Commission of Alaska, Ron Philemonof, the chairman and CEO of the Tanadgusix Corporation, the Native Village of St. Paul, described telephone service in his community:

When I was going to high school back in the '70s we had no phone services in my community. We had no television. We had to communicate through a ham radio to a phone patch. By the end of the '70s there was finally one phone in the whole community that we had to share. As the gentleman from AT&T said there was an echo and a double hop system and when you spoke into the phone you would hear yourself speaking back to you. It was very disconcerting. By the 1980s the whole village was finally wired to a satellite system through a central phone system in our communities. This vision was a result of Alaska's great effort ensure that all communities had telecommunication services, and insisted that the carriers provide it as part of their license. However, when they built the systems it was done with

¹⁴ See *Monitoring Report*, CC Docket No. 98-202, Table 3.23, Prepared by Federal and State Staff for Joint Board in CC Docket No. 96-45 (June 1999).

what I'd say non-state of the art equipment on the ground. We had surplus equipment, old wire that was put in.

Now we move into the 21st Century, there's old surplus equipment which is from the 1970s and beyond trying to communicate with equipment that's 30 years newer. And the systems are outdated and overloaded. The wiring is old. When it rains in St. Paul the phones go off the blink. We can't even get out. The echo effect is still there. Not only is this tough on voice communications but it's even worse when you try to get on the information superhighway. The best speed we can get out of St. Paul is 9.6k baud while the rest of America, and, you know, Alaska and Anchorage is getting 56.6 all the way up to 256k. The systems are also overloaded. When the fishing season starts in our community we can't get a call off the island. The only signal we get is that all circuits are busy.¹⁵

Second, although current federal and state universal service programs go a long way toward making basic local exchange service rates service affordable, the local exchange service that is supported is very limited. Local calling areas in many rural Alaskan communities encompass calls to relatively few others. For example, United Utilities reports that its local calling area in its largest community encompasses only 271 lines, while its local calling area in its smallest community encompasses only 14 lines!¹⁶ Therefore, unless one is merely calling a neighbor, virtually all calls, including calls for medical, governmental, educational, and business purposes, are toll calls. Intrastate toll charges in Alaska are a minimum of 14 cents per minute, provided the customer pays a monthly service fee in addition to per minute rates. Thus, although basic monthly charges may be relatively

¹⁵ Regulatory Commission of Alaska, Public Meeting, at 45-46 (Nov. 3, 1999) ("Alaska Public Meeting").

¹⁶ See Comments of United Utilities, *supra*, at 10.

affordable because of universal service support programs, total charges for service that is comparable to local exchange service in urban areas may not be affordable.

Third, there is a great thirst for Internet access in rural Alaska that is not being satisfied. Most communities in the rest of the Nation have at least dial-up access to the Internet, but in many parts of rural Alaska customers are not able to obtain this service. Barbara Worner, a member of the School Board in Eagle, a rural community in the eastern portion of Interior Alaska, described the inadequacy of Internet service:

As far as internet service, which is, you know, the business -- the area that business is growing so quickly, people in our community are unable to receive good internet service. The only place, and this is thanks to the digital receiver that was installed by GCI at our school, at the school for research purposes, they do have good internet service, but the rest of the community does not. We did try it for a very brief period of time, and it was just too frustrating to click and wait for a picture to appear on the screen.¹⁷

The need for Internet service is particularly great in rural Alaska where there are no alternative sources of information (*e.g.*, libraries) and limited sources of commerce, health care and education. Internet is also one of the only means to market small tourism businesses, arts and crafts, and the other limited economic opportunities available to these communities.

Although cellular service could theoretically partially satisfy the need for additional telecommunications services, it, too, is not widely available and is costly

¹⁷ Alaska Public Meeting at 30-31.

and difficult to provide in rural Alaska. Mr. Philemonof stated at the recent public meeting that he has been waiting five years for cellular service and cannot even obtain roaming service from a non-local provider.¹⁸ The Native Village Corporation of McGrath has looked into providing cellular service, but concluded that the cost would be excessive. Given likely capital costs of \$200,000-\$250,000 and annual operating costs of approximately \$100,000, the Village Corporation estimated that it would need to charge over \$1 per minute for airtime, a rate that would not be affordable.¹⁹

These problems confirm the Commission's policy goals of fostering additional deployment of telecommunications facilities in rural areas of the Nation, including rural Alaska. The Commission should continue and expand programs that support the provision of modern telecommunications services in rural areas, as required by Section 254(b)(3) of the Communications Act, as amended, so that Americans in all rural areas of the Nation have access to telecommunications and advanced services that is reasonably comparable to the access Americans living in urban areas have to these services. As set forth in Section IV of these comments below, the State believes that the Commission should (1) provide support for toll calls in areas with small local calling areas; (2) establish a limited, pilot program to evaluate expansion of the LinkUp America program to address the problem of high line extension costs

¹⁸ Alaska Public Meeting at 46.

¹⁹ Alaska Public Meeting at 92.

in rural America; and (3) expedite the inclusion of dial-up Internet access in the basket of services to be supported by federal universal service programs.

III. TRIBAL LANDS IN ALASKA ARE SUBJECT TO STATE REGULATORY JURISDICTION, BUT SHOULD RECEIVE ADDITIONAL FEDERAL UNIVERSAL SERVICE SUPPORT.

In Section III of the *FNPRM*, the Commission asks a series of questions concerning tribal lands and whether the Commission should adopt additional universal service support programs to facilitate greater use of telecommunications services on those lands. The term “tribal lands” as used in the *FNPRM* is a construct of the FCC used to identify geographic areas where possible modifications to federal universal service rules and policies may be warranted to address low penetration rates among Native Americans.²⁰

As with geography and other physical characteristics, the concept of tribal lands is very different in Alaska than it is in the rest of the Nation. Historically, there were few Native reservations in Alaska, and those were generally subject to state jurisdiction. Today, telephone and other utility services on all lands within the boundaries of Alaska, including lands owned or inhabited by Native Alaskans, are subject to the State law. Thus, many of the Commission’s proposals, which are aimed at filling a vacuum where there is no State agency with authority to regulate telephone service, would not apply in Alaska.

²⁰ *FNPRM* at ¶ 50.

The Federal Government, however, in several different respects has recognized that Native Alaskans are entitled to participate in the same programs which Congress has provided for other Native Americans, such as the Indian Health Service and programs sponsored by the Department of the Interior, Bureau of Indian Affairs. Similarly, the Commission should take steps that are consistent with State regulatory jurisdiction to promote increased telephone usage in areas inhabited by Native Alaskans. The State anticipates submitting further comments on the specific application of universal service proposals to Alaska in reply comments.

**A. The Provision of Telephone Service Throughout Alaska
Is Subject to the Laws and Jurisdiction of The State.**

Since the organization of Alaska's first civil government in 1884, Alaska Natives generally have lived in communities along with, and have been subject to the same laws as, non-Natives.²¹ Today, hundreds of communities in rural Alaska are inhabited by Native Alaskans, and in most of these communities, Native Alaskans constitute a majority of the population.

Congress has confirmed that Native lands in Alaska are quite different from those in the Lower 48. In 1971, Congress enacted the Alaska Native Claims Settlement Act ("ANCSA"), 43 U.S.C. § 1601 *et. seq.*, and 18 U.S.C. § 1151, under which Native Alaskans were provided, among other things, the opportunity to select

²¹ *See, e.g., Metlakatla Indian Community v. Egan*, 369 U.S. 45, 51 (1962) ("Metlakatla") ("[t]here was never an attempt in Alaska to isolate Indians on
(continued...)

a total of 44 million acres of land to settle all land claims by Alaska Natives.

Congress took this step to “maximize participation by Natives in decisions affecting their rights and property, . . . without creating a reservation system or lengthy wardship or trusteeship.”²² Thus, Congress specifically sought to avoid repeating in Alaska some of the problems created by the reservation model of the Lower 48.

Under ANCSA, more than 200 State-chartered Village and Regional Native Corporations, which are owned and operated by Native Alaskans, have been formed. Many native villages have formed municipal governments under State law, entitling these communities to share in State municipal assistance funds and further integrating Native Alaskans into Alaska’s political system.

Lands governed by ANCSA are not “Indian Country.”²³ The Supreme Court ruled just last year that tribal authorities do not have the authority to tax non-Natives and that Alaska state law applies to ANCSA lands.²⁴ This ruling is consistent with long-standing practice. The provision of telephone service (and other utility services) throughout the State of Alaska, including lands owned or

(...continued)

reservations,” and “[v]ery few were ever created); *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32 (Ala. 1988).

²² 43 U.S.C. § 1601(b). See *Alaska v. Native Village of Venetie Tribal Gov’t*, 118 S.Ct. 948 (1998) (“*Venetie*”).

²³ *Venetie, supra*. The only reserve in Alaska not subject to ANCSA was the Annette Island Reserve in Southeastern Alaska inhabited by the Metlakatla Indians. Even this reservation is not “Indian Country” as that term is used in the Lower 48. The Native population living on this reserve have always been subject to the laws of the Territory and State of Alaska, as well as the United States. *Metlakatla, supra*, 369 U.S. at 51-54.

²⁴ *Venetie, supra*.

occupied by Native Alaskans and the Metlakatla reserve, is subject to regulation by state authorities, including the Regulatory Commission of Alaska.²⁵

In Section III of the *FNPRM*, the Commission recognizes that three of its proposals are intended to apply where a State lacks jurisdiction over a carrier providing telephone exchange or access service in a particular area. Those proposals relate to (1) the determination of whether the FCC or a State Commission should designate the carriers eligible to receive universal service support in high-cost areas; (2) the determination of whether the FCC or a State Commission should designate carriers to provide what would otherwise be intrastate service in unserved areas; and (3) the provision of additional federal support under the Lifeline program where there is no State Lifeline program because of a lack of State jurisdiction.²⁶

The State offers no view here about whether the FCC should adopt these proposals nation-wide. These proposals, however, would have no application in Alaska because there is no tribal land in the State that is outside the jurisdiction of the Regulatory Commission of Alaska.²⁷

²⁵ For example, local telephone service for the Metlakatla reserve, neighboring areas, and other parts of the State has been provided by GTE Alaska. The Regulatory Commission of Alaska designated GTE Alaska as an eligible telecommunications for all of the areas it serves.

²⁶ *FNPRM* at ¶ 39.

²⁷ The separate comments being filed by the Regulatory Commission of Alaska will address the authority of that Commission to designate eligible telecommunications carriers throughout the State under Section 214(b)(6), even if the requesting carrier is a wireless service provider. Those comments will also address issues related to State Commission designation of carriers
(continued...)

**B. The FCC Can and Should Take Steps, Consistent With
State Regulatory Jurisdiction, to Promote Increased
Telephone Service In These Areas.**

As a matter of fundamental national policy, Native Alaskans are entitled to participate in programs designed to assist other Native Americans. Federal policy consistently treats Alaskan Natives as Native Americans. Indeed, there are numerous federal programs in which Alaskan Natives participate as fully as other Native Americans. Among the most significant of these programs are those administered by the Department of the Interior, Bureau of Indian Affairs.²⁸ There are 227 federally recognized tribes in Alaska eligible to receive services from the Bureau of Indian Affairs.²⁹ Similarly, Alaskan Natives are also included in the definition of Indians eligible to participate in the Indian Health Care program administered by the Department of Health and Human Services.³⁰ There are many other specific instances in which Congress has directed that Native Alaskans be

(...continued)

to provide service in any unserved area of the State, including areas inhabited by Native Alaskans, pursuant to Section 214(b)(3).

²⁸ The statute under which the Department of Interior, Bureau of Indian Affairs programs are administered explicitly includes Native Alaskans within its reach. 25 U.S.C. § 479 ("For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians.").

²⁹ See Department of the Interior, Bureau of Indian Affairs, "Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs," dated Dec. 21, 1998, found at <http://www.doi.gov/bia/tribes/telst98a.html> (visited Sept. 14, 1999).

³⁰ 25 U.S.C. § 1603(c) (the term "Indian" means a person who is a member of an Indian tribe), § 1603(d) (the term "Indian tribe" includes "any Alaska Native village or group or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians").

included in programs aimed at Native Americans.³¹ Since 1980, the U.S. Bureau of the Census reports data systematically on American Indian and Alaska Native Areas.³²

In light of this national policy, the FCC can and should take steps, consistent with State regulatory jurisdiction and in consultation with Native Alaskan tribes through their tribal governments, to promote increased telephone usage by Native

³¹ Each of the following federal statutes explicitly includes Native Alaskans within the definition of those eligible to receive support. Cites are to the specific subsection that mentions Alaska Natives: 12 U.S.C. § 1715z-13(i)(1) (authorizing federal mortgage insurance on American Indian lands, including Alaska Native lands); 12 U.S.C. § 4702(12) (authorizing community development banking initiatives directed to American Indian communities, including Alaska Native communities); 15 U.S.C. § 637(a)(4)(A) (authorizing the Small Business Administration to seek procurement from economically disadvantaged American Indian tribes, including Alaska Native communities); 20 U.S.C. § 2326(a)(1) (authorizing a vocational program directed at American Indians, including Alaska Natives); 20 U.S.C. § 7404(a)(1) (authorizing a bilingual education program directed at American Indians, including Alaska Natives); 20 U.S.C. § 8621(b) (directing regional educational assistance centers to address the cultural and other needs of American Indians, including Alaska Natives); 25 U.S.C. § 1452(b), (c) (authorizing federal investment to help American Indians, including Alaska Natives, utilize their physical and human resources); 25 U.S.C. § 1903(3), (8) (establishing federal standards for child welfare within American Indian tribes, including Alaska Native communities); 25 U.S.C. § 4103(12) (establishing a housing assistance program directed at American Indians, including Alaska Natives); 42 U.S.C. § 612(a)(2)(B) (authorizing federal payments to American Indian tribes, including Alaska Native communities, if they establish family assistance plans for their members); 42 U.S.C. § 11472(b) (setting aside 1.5 per cent of a homeless assistance program, authorized by 42 U.S.C. § 11461, for American Indian tribes, including Alaska Native communities).

³² See American Indian and Alaska Native Areas (AINIA) Geographic Program for Census 2000 – Proposed Program, 64 Fed. Reg. 56,732, 56,734 (Oct. 21, 1999).

Alaskans. As the FCC suggests, Native Alaskans face obstacles in obtaining telecommunications services that are in many respects similar to those facing other Native Americans.³³ Costs for local telephone service are high; the available population over which these costs can be spread is small; local calling areas are small; and the services available are limited (often no wireless or Internet service).³⁴

The need for additional federal support is clear. As the FCC has recently stated, Congress has required that federal universal service support mechanisms ensure that telephone service rates are comparable between and among the States.³⁵ The States with the largest areas affected by the FCC's proposals have relatively small populations. These States simply do not have a sufficient number of access lines over which the costs of these programs can be spread consistent with the requirements of Section 254(b) of the Communications Act. The funding of increased universal service support solely from State sources would lead to increases in local service rates in these States and make those rates not comparable to the rates in other States.

The State anticipates submitting further comments on the application of these principles to Alaska after having an opportunity to review the comments submitted and consulting with tribal interests. Indeed, the State urges the FCC

³³ *FNPRM* at ¶ 53.

³⁴ See Section II of these Comments.

³⁵ *Federal State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, CC Docket No. 96-45, ¶ 38 (rel. Nov. 2, 1999).

and its staff to come to Alaska to meet with Native Alaskans including representatives of tribal governments, other rural residents, the Regulatory Commission of Alaska, the State, and others on these issues. The success of any effort to increase penetration of telecommunications services among Native Alaskans requires that all interested parties be involved in the process.

IV. THE COMMISSION SHOULD ADOPT PROGRAMS TO INCREASE TELECOMMUNICATIONS SERVICE IN UNDERSERVED AREAS.

In Section VI of the *FNPRM*, the Commission seeks comment concerning whether additional support for low-income consumers is necessary to promote subscribership in underserved areas. It also seeks information concerning the needs of rural health care providers. The State believes that additional support is necessary to promote additional subscribership in underserved areas of rural Alaska.

A. The Definition of “Underserved” Should Be Linked to A Community’s Penetration Rate.

The first issue raised by this section of the *FNPRM* is how to define an underserved area. One possibility suggested by the Commission is penetration rates.³⁶ Because the concern underlying the Commission’s *FNPRM* is relatively low penetration rates in rural areas, there is logic behind using subscribership as at least one criterion for defining underserved areas.

³⁶ *FNPRM* at ¶ 118 (“For example, a community may be considered underserved if the penetration rate of the community is significantly below the national average.”).

The term “underserved,” by its very nature, is a relative term, not an absolute one. Thus, the level of penetration that should qualify an area as “underserved” should be a function of national norms. The State believes that an area should be considered underserved if the percentage of households that do not subscribe to telecommunications services is three times the national average. Thus, if the national telephone penetration rate is 94 percent (6 percent without telephone service), an area should be considered underserved if it has a penetration rate of 82 percent or less (at least 18 percent without telephone service).

The Commission may wish to add eligibility criteria to match the additional programs that it plans to implement. For example, as explained below, the State believes that a proposal to include certain toll services within the services to be covered by universal service programs has merit. This proposal is founded on a recognition that additional support is needed in rural communities where local calling areas are small. Thus, the Commission could add eligibility criteria that correspond to this proposal. For example, support for certain toll services could be available to low-income consumers in communities in which local calling areas have fewer than 500 or 1000 lines.

B. There Are Several Additional Programs The FCC Should Adopt for Underserved Areas.

The State endorses some of the Commission’s proposals to increase penetration in underserved areas. One of the most significant steps the Commission can take to increase penetration in underserved areas, however, is one it has not mentioned: addressing the lack of dial-up Internet access.

As set forth above, the limited size of local calling areas is a significant problem in underserved areas. There are several potential solutions to this problem. One solution suggested by the FCC is to expand the size of local calling areas to include the nearest metropolitan area or community of interest.³⁷ As the Commission has recognized, however, such a step would likely cause upward pressure on local service rates. This effect is a serious one and, standing alone, is sufficient to reject this particular solution to the problem of limited local calling areas.

There are other problems with this solution as well. In many underserved areas, including those in Alaska, expanding local calling areas would also effectively increase the amount of services provided by a local exchange carrier which is not subject to competition for residential local exchange services, and decrease the amount of services provided by interexchange carriers, a market segment in which some competition exists. Also, defining local calling areas is a matter of State regulatory responsibility. Congress has assigned to State commissions the task of determining the terms and conditions of intrastate telephone services, including local exchange service.³⁸ Therefore, it does not appear that the FCC has the authority under the Communications Act to interfere with a State regulatory commission's delineation of local exchange calling areas.

³⁷ *FNPRM* at ¶ 122.

³⁸ 47 U.S.C. §§ 15(b), 221(b).

Another of the Commission's suggestions in this area has more merit. The FCC says that it "could provide support for calls outside of the local calling area that fall within specified federally-designated support areas."³⁹ This solution would mitigate the problem of limited local calling areas without (a) impinging on State regulatory authority, (b) shifting services from providers that likely are subject to some competition to providers that likely are not subject to competition, and (c) causing upward pressure on local exchange service rates.

This solution must, of course, be limited so as not to impose a significant additional burden on federal universal service support mechanisms. It must also be limited to circumstances in which the small size of local calling areas is likely a cause of relatively low penetration rates. Solutions that are so limited will not eliminate incentives for States to keep local rates affordable.

One solution that was advanced at the Alaska public hearing was to provide up to \$25 a month of support for intrastate toll calls to residents of underserved areas with limited local calling areas who qualify for the Lifeline program.⁴⁰ This type of proposal would establish several eligibility criteria for additional federal support that would make sure that additional support is limited and directed to where it would be most useful. Like other low-income universal service support programs, additional support would be capped at a maximum amount and only

³⁹ *FNPRM* at ¶ 123.

⁴⁰ Alaska Public Meeting at 70.

those persons who satisfy an income-related test would be entitled to receive it. Moreover, some criterion related to limited local calling areas could be used to direct support to locations where it is needed. One such criterion would be that only persons who have a local calling area of no more than 500 or 1000 access lines, would be eligible to receive this support.

The State also believes that the proposal of the Arizona Corporation Commission to expand the LinkUp America program to offset the high costs of extending local lines in underserved areas has merit; but because of its potential cost consequences, the proposal should be implemented carefully. The Arizona Commission has proposed that a certain amount of federal universal service funding be set aside and used to partially offset line extension or construction charges associated with establishing local exchange service to low-income customers. States could supplement these funds with their own State support.⁴¹ This proposal undoubtedly would assist in increasing telephone penetration rates in underserved areas where line extension or construction costs are high. It must be implemented carefully, however, so as to avoid diverting funding that is critically needed for other federal universal service support mechanisms. The Commission may wish to consider conducting a pilot program under which a very limited amount of funding is set aside for this purpose for a few years and then evaluating the effectiveness of this program.

⁴¹ *FNPRM*, Appendix E at 8.

One of the most important steps the Commission should take is one that it did not mention. It should institute steps to include dial-up Internet access into the basket of services to be supported by federal universal service programs. Although the lack of Internet access is obviously not a reason why telephone penetration rates in many rural Alaskan communities were low historically, it is an impediment to increasing penetration rates today and will be in the future. As the Commission is well aware, Internet usage in America is exploding, doubling every 100 days. The Chairman has recently summarized the impact of the Internet:

The world has never seen anything like the Internet. It is the fastest growing communications technology the world has ever known. It is changing every aspect of our lives. It is a fundamental paradigm shift in the way we live.⁴²

At an international conference last month in which he addressed issues related to economic equality and opportunity, President Clinton announced a goal of having Internet access be as complete as telephone access within a certain number of years, not only in the developed nations, but also in the developing nations of the world. He explained the need for and benefits of such access as follows:

Let us begin with the proposition that the new economy is powered by a revolution in technology, especially in information and telecommunications; and exponentially enhanced by the growing global trade. The new economy does best in a highly entrepreneurial environment where people with new ideas have access to capital and low barriers to establishing a growing business. More than in any previous time of economic expansion, job growth is disproportionately higher in the private, as opposed to the public, sector.

⁴² Remarks of Chairman Kennard at the National Association of Telecommunications Officers and Advisors 19th Annual Conference, Sept. 17, 1999.

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[T]here will be people and places that are completely left behind; I mentioned this in my remarks last night. The United States has the lowest unemployment rate we've had in 30 years, but if you look at some of our inner-city neighborhoods -- the remote mountain places in Appalachia, for example, the Mississippi Delta, the Native America, the American Indian reservations -- you find unemployment rates anywhere from three to 12 times the national average.

So if you wish to promote equality and opportunity, there must be a strategy first to close the skills gap, which means that there's a role for government here. We have to spend more money, not less, than ever before on education; it needs to start sooner; it needs to last for a lifetime; and it needs to be focused much more rigorously on results, so that it's not just a question of spending money, but you're actually getting a higher return for the money that's being spent.

Finally, let me say there is a big problem with the so-called digital divide. The people who have access to the Internet and technology have enormous advantages, and it has to be closed. We are now hooking up all of our classrooms to the Internet, and we should finish next year; but I think we should shoot for a goal in the developing countries, the developed countries, of having Internet access as complete as telephone access within a fixed number of years. It will do as much as anything else to reduce income inequality.

Last point I want to make: there are not just problems in this economy dealing with equality and opportunity; there are opportunities, too, and let me just mention two.

Number one, technology has permitted us to say for the first time since the Industrial Revolution it is no longer necessary to grow an economy to burn more greenhouse gasses to burn up the atmosphere. It is now possible to grow an economy and actually use less greenhouse gasses and put less strain on the economy. That opens up the opportunity not only to save the environment, but to create literally millions of new jobs around the world.

Number two, the Internet itself offers opportunities for people who don't have access to traditional jobs to make money. There is an American company that perhaps some of you have used, called eBay, and it's basically a place on the Internet where you can buy anything. It's like a great international market on the internet. There are now

over 20,000 people, including a lot of people who are on welfare, who are making a living on eBay -- making a living on eBay.⁴³

The need for and benefits from providing Internet access in rural Alaska are no less than they are elsewhere. If the United States wishes to lead the world in the new economy and provide opportunities for all of its citizens, it must take steps to achieve the President's goal throughout all portions of this country as soon as possible.

Today, however, that goal is not being achieved in rural Alaska. Households in most rural communities in Alaska do not have meaningful access to the Internet. In many areas, the facilities necessary to deliver reliable dial-up Internet access are simply unavailable. In other areas, service is plainly unaffordable, in part because of the high cost of satellite circuits. In rural Alaskan communities in which a digital earth station has been installed, Internet service requires the purchase of a satellite circuit for approximately \$1,500 per month. In small rural communities that can be reached only by satellite, there simply may not be enough customers to make the service affordable.

As the President's remarks confirm, this lack of Internet access is denying rural Alaskans the opportunity to participate in today's social and economic world. It is creating precisely the cadre of second-class telecommunications users that

⁴³ Remarks by the President at the Third Way Conference Session One: Equality and Opportunity (Morning Session) Palazzo Vecchio Florence, Italy, <http://www.whitehouse.gov/library/PressReleases.cgi?date=0&briefing=> (visited Nov. 21, 1999).

Congress sought to avoid in enacting the universal service provisions of the Telecommunications Act.

The State recognizes the Commission's commitment to promote Internet access to all Americans. For example, the Commission has convened a joint Federal-State conference to promote the deployment of advanced services throughout the Nation. The State also recognizes that there are several issues the Commission would need to address in connection with expanding universal service programs to cover Internet access, including the extent to which Internet access service should be supported only if it is provided by eligible telecommunications carriers and to what extent the Nation's investment in bringing Internet service to schools and libraries in rural communities can be leveraged to maximize the benefits from that investment. The Commission should expedite the resolution of these issues so that the critical need for Internet access service in rural Alaska can be addressed.

C. Rural Health Care Provider Needs For Telecommunications Services Are Currently Not Being Satisfied.

The purpose of the rural health care provisions of Section 254(h) of the Telecommunications Act was to allow rural health care providers to obtain access to telecommunications services at urban rates to facilitate the delivery of telemedicine and related services. As stated in the Conference Report, "It is intended that the rural health care provider receive an affordable rate for the services necessary for

the purposes of telemedicine and instruction related to such services.”⁴⁴ This legislative purpose can be fulfilled, of course, only to the extent that the telecommunications services rural health care providers wish to obtain – and the facilities necessary to provide those services – are available. In its *First Report and Order* in this docket, the Commission discussed the need to improve the telecommunications infrastructure in Alaska, particularly so that rural health care providers can use telemedicine and telehealth services.⁴⁵

Rural health care providers in Alaska do not currently have the telecommunications services they need to provide the telemedicine services their patients require. In several parts of the State, efforts are underway to establish regional networks connecting rural health clinics to field hospitals or ambulatory health care centers. These regional networks would be formed using frame relay services. The required data rates for these circuits would range from 128 kbps to

⁴⁴ H. Rep. 104-458, 104th Cong., 2d Sess. at 133. As Senate Stevens said in his floor statement on final Senate action:

My State, when I first came here, had no assistance whatever for people in small villages. They had to find their way to Indian hospitals in regional areas. We created a system of clinics. Those clinics are, by and large, operated by young women from the villages who have a high school education and some technical training now. This bill means telecommunications will bring telemedicine in. They will be able to have a direct exposure of patients to doctors miles and miles away. They will be able to get assistance in dealing with mothers who have complications in pregnancies.

142 Cong. Rec. S692 (daily ed. Feb. 1, 1996).

⁴⁵ See *FNPRM* at ¶ 130, citing *First Report and Order*, 12 FCC Rcd. at 9138-39.

T-1 speeds. Each of these field hospitals and ambulatory health care centers can then be connected to medical facilities in Anchorage through a T-1 circuit.

The Southeast Alaska Regional Health Consortium provides a good example. This organization includes health care providers at multiple sites. Currently, five sites are connected through a frame relay network, with data rates ranging from 32 kpbs to 192 kpbs. This network currently costs approximately \$6600 per month to operate. This network is not adequate, however, to meet the telemedicine needs of the population. Connecting the existing five sites at T-1 speeds would cost approximately \$27,500 per month. (This amount does not include \$5700 in installation charges and the \$9000 cost of new routers that would be needed.) The monthly cost of the separate T-1 circuits would range from approximately \$2300 to \$8500. By comparison, the "urban rate" for a T-1 circuit in Anchorage is about \$950 per month.⁴⁶

The Consortium would like to add 13 additional sites to its network to permit it to bring the benefits of telemedicine and telehealth to other rural communities in the region. It has received a quote from an interexchange carrier indicating that T-1 service could be available in 11 of those communities. In one of the remaining communities, only 56kpbs service could be made available. This carrier was not able to provide an estimate for service in the remaining community. The cost to

⁴⁶ The urban rate for installation (or nonrecurring) charges for T-1 service is \$778.70, whereas the installation charges for most of those circuits would be \$1,025.00.

bring T-1 service to the rural health provider in 11 communities and 56 kbps service to the provider in one of the remaining communities would be approximately \$66,000 per month. (This amount does not include installation charges of approximately \$6850 and the \$36,000 cost of new routers.) The monthly cost of these T-1 circuits varies from approximately \$2000 to \$8500.

Alternatively, these 12 community rural health providers could be connected by 56 kbps frame relay service. This low-bandwidth solution would cost an estimated \$8100 per month (plus installation fees and new equipment costs). The monthly rates for these 56 kbps circuits range from approximately \$400 to \$900. The “urban rate” for a 56 kbps frame relay circuit is \$96.50.

As this example demonstrates, the facilities for the provision of telemedicine services are increasingly becoming available in rural Alaska. They are not, however, available throughout the State. In locations where these facilities are available, the rural health care universal service support mechanism is critical to make these services affordable. Where these facilities are not available, additional universal service support is needed to support the deployment of these facilities.

V. CONCLUSION

The State of Alaska commends the Commission for seeking to take steps to increase the deployment of telecommunications facilities in rural areas of this Nation, including unserved and underserved areas. As Chairman Kennard recently stated, “Communities without access to advanced technologies will be placed at

substantial risk in the next century, and we must ensure that all Americans, no matter where they live, reap the benefits of the Information Age.”⁴⁷

Respectfully submitted,

THE STATE OF ALASKA



Robert M. Halperin
CROWELL & MORING LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202/624-2543

Attorneys for the State of Alaska

Of Counsel:

John W. Katz, Esquire
Special Counsel to the Governor
Director, State-Federal Relations
Office of the State of Alaska
Suite 336
444 North Capitol Street, N.W.
Washington, D.C. 20001

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⁴⁷ Remarks of Chairman Kennard, to the National Association of Regulatory Utility Commissioners, San Antonio, Texas, "Blazing A Trail: A Vision for the Twenty-First Century" (Nov. 10, 1999).